

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

X

A.S. on behalf of T.B.,

DECLARATION OF  
MICHELE KULE-KORGOOD

Case No: 23-cv-4580

Plaintiff,

v.

New York City Department of Education,  
New York City Board of Education, and  
David C. Banks, in his official capacity as  
Chancellor of the New York City School District,

Defendants.

X

I, MICHELE KULE-KORGOOD, Kule-Korgood and Associates, P.C., hereby submit the following statement under penalty of perjury:

1. I respectfully submit this declaration in support of Plaintiffs' motion for attorneys' fees and expenses in this action.

**EDUCATION AND GENERAL PROFESSIONAL EXPERIENCE**

2. I have a Bachelor of Science Degree in Special Education from Boston University, 1988; a Bachelor of Arts Degree in Psychology from Boston University, 1988; and a Juris Doctor Degree from Hofstra University School of Law, 1993. During law school, I chaired a national conference regarding the then-newly enacted Americans with Disabilities Act, and was founder of a student organization, Advancement of Challenged Citizens towards Equality and Self-Sufficiency (ACCESS) and a founding member of the Hofstra Disabilities Law Clinic.

3. My entire career has been devoted to work on behalf of individuals with disabilities to ensure that they receive an effective education and are provided an opportunity

to take their rightful place in society. As an undergraduate student at Boston University, I had the honor of working for Rick Hoyt as a personal care assistant. Rick was the first nonspeaking quadriplegic student to ever graduate from the School of Education at Boston University and also one of the first nonspeaking quadriplegic students to graduate from any United States university, and my experience working for him provided me with some of the most valuable lessons of my career.

4. Prior to law school, I had the privilege to serve and work as a special education teacher at United Cerebral Palsy Association of Nassau County from 1988 through 1990. I went to law school with the goal of assisting students with disabilities and their families to secure an effective special education.

5. I served as a summer law intern as assistant to general counsel for United Cerebral Palsy Association of New York State in 1991, and also served as an extern for New York Lawyers for the Public Interest (a public interest law firm serving persons with disabilities) in 1991.

6. Upon graduation from law school, I was employed as an associate to Neal Rosenberg from 1993 through October 1995. Mr. Rosenberg's practice largely focused on representation of families in special education legal matters. My work at Mr. Rosenberg's office included representation of families in special education and disciplinary legal matters, representation of teachers in Article 78 proceedings regarding certification, and representations of graduate students and teachers in disciplinary proceedings.

7. Since then, I have been the principal attorney in special education law firms. I am the founding Principal of Kule-Korgood & Associates, P.C., a private law firm in Forest Hills, New York founded in 2013. Prior to that, I was the founding Principal of the Law Offices of

Michele Kule-Korgood from 1995-2011, and the Founder/Managing Attorney of Kule-Korgood, Roff and Associates from 2011-2013.

8. Kule-Korgood & Associates, P.C. is a private law practice located in Forest Hills, New York, that focuses primarily on representing families of students with disabilities in obtaining an effective education. I oversee all matters at Kule-Korgood & Associates, P.C., including supervising a staff of approximately ten, which includes four attorneys and a variety of support personnel in their handling of the cases.

9. From 1994 through the present, I have directly handled thousands of special education matters on behalf of parents of children with special education needs that seek educational and/or related services pursuant to federal and state law, in due process proceedings; appeals before the New York State Review Officer; in federal district court; and, before the Second Circuit Court of Appeals.

10. I have accumulated nearly thirty years of experience in litigation under the Individuals with Disabilities Education Improvement Act in addition to my years of teaching special education prior to law school. My personal experience as a special education teacher has informed my role as an attorney in special education matters.

11. I am a member of the New York State Bar since 1994, as well as the Bar for the District of Columbia (inactive status). I am also admitted to practice in the Eastern and Southern Districts of New York and the Court of Appeals for the Second Circuit, as well as in the United States Supreme Court.

12. I served for many years as an active member of the New York State Bar Association's Committee on Issues Affecting People with Disabilities, as well as on the Board of the Center for Learning Differences and the Association for Science in Autism Treatment.

13. I have been a board member of the Council of Parent Attorneys and Advocates (“COPAA”) since 2008. COPAA is a national not-for-profit organization for parents of children with disabilities, attorneys and advocates dedicated to protecting and enforcing the legal and civil rights of students with disabilities and their families at the national, state, and local levels. COPAA is premised on the belief that every child has the right to an effective education which will prepare them for further education, employment, and independent living. I served as Vice Chair of the Board from 2015-2016 and as Chair of the Board from 2016-2017. I am currently the Co-Chair of the Government Relations Committee.

14. I speak extensively and nationally on the rights of students with disabilities to an effective education. I have conducted extensive training and Continuing Legal Education programs nationally for special education attorneys and advocates over the past twenty-five years. I have chaired the School Law Institute for Practicing Law Institute, as well as conferences on special education law for the New York State Bar Association, Lorman and NBI. I have presented on various topics of special education law for all of the above organizations, as well as for COPAA and the Lehigh University Special Education Law Symposium. Since 2014, I have been training attorneys throughout the country to represent families of children with disabilities in due process hearings under IDEA at least annually.

15. I am principal author, along with Andrew Feinstein, Esq., and Joseph Tulman, Esq. of *Are There Too Many Due Process Cases? An Examination of Jurisdictions with Relatively High Rates of Special Education Hearings?* 18 UDC/DSCL L. Rev. 249-77 (2015). In addition, I have authored a chapter entitled *Life Lessons from the Hidden Curriculum*. Dick and Rick Hoyt, with Todd Civin. *One Letter at a Time*. Mascot Books, Winchendon, MA 2012 and co-authored a chapter on the Legal Rights of Individuals

with Dyslexia and Other Disabilities in *Multisensory Teaching of Basic Language Skills, Third Edition*, Paul H. Brookes Publishing Co., Baltimore, MD, 2011.

16. I have engaged in civil litigation, primarily in the area of civil rights/special education in thousands of impartial hearings, as well as before the State Review Officer, the Eastern and Southern Districts of New York, the Appellate Division, Third Department, and the U.S. Court of Appeals for the Second Circuit. In addition, I also contributed to the Amicus brief filed by COPAA in the U.S. Supreme Court in the matter of *Endrew F. v. Douglas Cty. Sch. Dist.*, 137 S. Ct. 988 (2017).

17. I have been instrumental in developing some of the significant jurisprudence in this field. Among my published decisions are: *Mr. & Mrs. A. ex rel. D.A. v. New York City Dep't of Educ.*, 769 F. Supp. 2d 403 (S.D.N.Y. 2011) – a case of first impression that established the precedent ensuring that the right to tuition funding would not be dependent on a family's wealth and ability to front the entire costs of the tuition, *S.Y. v. New York City Dep't of Educ.*, 210 F. Supp. 3d 556 (S.D.N.Y. 2016), *S.B. v. New York City Dep't of Educ.*, No. 15-CV-1869, 2017 WL 4326502 (E.D.N.Y. Sept. 28, 2017), and *Awad v. State Educ. Dep't of New York*, 240 A.D.2d 923, 658 N.Y.S.2d 755 (1997).

#### HOURLY RATES

18. Over the past few years, it has become more and more difficult to negotiate attorneys' fees with the DOE. The initial offers made by the DOE have become lower and lower, for the most part the attorneys refuse to confer (regarding settlement or anything else) in any manner other than email, and often they simply take a hardened position and refuse to negotiate further shortly after an initial offer. Notably, they regularly refuse to consider how the delays and inefficiencies in their procedures cause many cases that might otherwise settle

to proceed to hearing and necessitate far more time to be incurred (as in this case).

19. I currently seek an hourly rate of \$550 for my time spent matters based on my understanding of the rates charged by attorneys in this area with my experience who are engaged in complex administrative and federal litigation and because of my specialized expertise in the educational rights of students with special needs. I attest to the fact that there have been and continue to be clients who agree to and pay my hourly rate of five hundred fifty dollars. I believe that my hourly rate accurately reflects rates within the Eastern and Southern Districts of New York for attorneys of similar skills and experience.

20. My hourly rate considers significant overhead costs for Kule-Korgood & Associates, P.C. The overhead includes such items as New York City rent for the offices, the costs of specialized case management software and legal research services for a staff of ten, a variety of necessary insurance policies (including health insurance, professional liability insurance, office insurance, among others), and multiple support staff and work that is not billable.

21. My firm charges \$425/hour for Kira Epstein. Ms. Epstein has been a member of the New York State bar since January 2009, and is also admitted to practice before the United States District Courts for the Southern and Eastern Districts of New York, and the United States Court of Appeals for the Second Circuit.

22. She obtained a Bachelor of Arts degree with College Honors in History from The University of Chicago, in June 2005 and a Juris Doctor degree, *cum laude*, in May 2008 from American University Washington College of Law.

23. While attending American University Washington College of Law, Ms. Epstein was a member of the Administrative Law Review, and wrote her Law Review comment on

the issue of school district accountability for student outcomes under the IDEA and the No Child Left Behind Act (NCLB).

24. Upon her graduation from law school, Ms. Epstein completed a two-year judicial clerkship for the Honorable Gerald I. Fisher, an Associate Judge on the Superior Court of the District of Columbia. During her clerkship, she assisted Judge Fisher with overseeing his docket, which included criminal and civil matters. Her duties included reviewing all filed motions and pleadings, conducting legal research, writing bench memoranda, and drafting and issuing judicial orders upon judge approval.

25. Following her clerkship, Ms. Epstein worked as an Associate (later Senior Associate) at the Law Offices of Lauren A. Baum, P.C., from September 2010 through September 2016 (including a period of employment as Of Counsel from July 2012 through August 2013). She subsequently worked as an Associate for the Law Offices of Adam Dayan, PLLC, from September 2016 through September 2017, before starting her current employment as a Senior Associate at Kule-Korgood & Associates, P.C., in September 2017. Each of these firms is a private law firm with a practice focusing primarily on representing students with disabilities and their families in special education law matters.

26. Throughout her career, and to date, Ms. Epstein has represented hundreds of students with disabilities and their families (primarily New York City residents), at all stages of the special education planning process, as well as in subsequent litigation and appeals.

27. My firm charges \$250/hour for junior associates, with 0-3 years of experience, based on my understanding of the rates charged by associate attorneys in this area with their level of experience in representing families of students with special needs.

28. My firm charges an hourly rate of \$125 for the time spent on matters by

paralegals and law students based on my understanding of the rates charged by paralegals and law students in this area.

Under penalty of perjury, pursuant to 28 U.S.C. Sec. 1746, I declare that the foregoing statements are true and correct to the best of my knowledge.

Dated: New York, New York  
December 8, 2023

/s/ Michele Kule-Korgood  
Michele Kule-Korgood  
Kule-Korgood & Associates, P.C.  
118-35 Queens Boulevard, 17<sup>th</sup> Floor  
Forest Hills, New York 11375  
(718) 261-0181  
mkule@educationlawny.com